

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

JEOFFREY L. BURTCH, CHAPTER 7
TRUSTEE, FACTORY 2-U STORES,
INC., et al.,

Plaintiffs,

v.

MILBERG FACTORS, INC.,
CAPITAL FACTORS, INC., THE CIT
GROUP/COMMERCIAL SERVICES, INC.,
GMAC COMMERCIAL FINANCE LLC,
HSBC BUSINESS CREDIT (USA) INC.,
ROSENTHAL AND ROSENTHAL, INC.,
STERLING FACTORS CORPORATION,
WELL FARGO CENTURY, INC.,

Defendants.

Civil Action No. 1:07-cv-00556-JJF-LPS

**DECLARATION OF STUART M. BROWN
IN FURTHER SUPPORT OF
MOTION TO DISMISS OF DEFENDANTS
GMAC COMMERCIAL FINANCE LLC,
STERLING FACTORS CORPORATION
and WELLS FARGO CENTURY, INC.**

STUART M. BROWN, declares under penalty of perjury and says:


I am a member of the Bar of this Court and of the firm of Edwards Angell Palmer & Dodge LLP, attorneys for defendants, GMAC Commercial Finance LLC, Sterling Factors Corporation and Wells Fargo Century, Inc. I am fully familiar with the facts and circumstances in this action. I make this declaration in further support of the aforementioned defendants' motion to dismiss the Complaint in the within action for failing to state a claim pursuant to Fed. R. Civ. P. 12(b)(6), and because it is time-barred.

Annexed hereto in support of the motion, are the following exhibits:

<u>EXHIBIT</u>	<u>DESCRIPTION</u>
"A"	Announcement of Factory 2-U Stores, Inc.'s Fiscal 2003 Third Quarter Operating Results, dated November 12, 2003

I declare under penalty of perjury that the forgoing is true and correct.

Executed: April 1, 2008
Wilmington, Delaware



STUART M. BROWN

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FACTORY 2 U STORES INC

EXHIBIT TYPE: EXHIBIT 99 - Additional Exhibits

FILING DATE: November 13, 2003

***** COMPANY INFORMATION *****

SIC CODES:

5651 - Family clothing stores
INDUSTRY TYPE: Retail (Apparel)
SECTOR ID: Services

***** CONTENTS *****

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***** TEXT *****

Exhibit 99.1

FACTORY 2-U STORES, INC. ANNOUNCES FISCAL 2003

THIRD QUARTER OPERATING RESULTS

SAN DIEGO, CA, November 12, 2003 - FACTORY 2-U STORES, INC. (Nasdaq:FTUS) today announced its operating results for the third quarter ended November 1, 2003.

Net sales for the third quarter were \$121.9 million compared to \$134.5 million for the same period last year, a decrease of 9.4%. Comparable store sales for the third quarter decreased 6.9% versus a decrease of 5.6% for the same period last year. Comparable customer transaction counts increased 4.3%, the market basket size increased 13.1% and the average unit retail declined 21.1% for the third quarter this year. The Company reported a net loss of \$3.0 million, or \$0.17 per share, compared to a net loss of \$3.5 million, or \$0.27 per share for the same period last year.

Net sales for the nine months ended November 1, 2003 were \$349.9 million compared to \$379.5 million for the same period last year, a decrease of 7.8%. Comparable store sales decreased 4.7% versus a decrease of 8.5% for the same period last year. Comparable customer transaction counts increased 5.4%, the market basket size increased 12.8% and the average unit retail declined 19.8% for the nine-month period this year. The Company reported a net loss of \$11.1 million, or \$0.71 per share compared to a net loss of \$12.5 million, or \$0.97 per share for the same period last year. Excluding the previously announced pre-tax reduction of approximately \$1.2 million to valuation reserves established at the end of our fiscal 2002 for slow and aged inventory and certain stock subscriptions notes receivable secured by our common stock, and the pre-tax \$2.1 million legal settlement for the same period last year, our loss would have been \$11.9 million, or \$0.76 per share, compared to a net loss of \$11.2 million, or \$0.87 per share for the same period last year.

Bill Fields, Chairman and Chief Executive Officer commented, "Though our third quarter's sales were below our expectation, our third quarter's operating results were at the low end of our guidance. This result was due to lower than anticipated markdown volume and distribution costs during the third quarter."

Mr. Fields continued, "As we approach the Holiday season, we are in an excellent inventory position. Average inventories per store were up 8% at the end of October compared to last year and we continue to receive a steady flow of merchandise for the Holiday season. We expect the majority of Holiday and other seasonal merchandise receipts to be substantially completed by mid November. We also expect to end our fiscal year in a stronger inventory position, as year-end average inventories per store are planned to be up over 30%."

Mr. Fields concluded, "With an improved inventory position and in-store execution, we expect comparable store sales to increase approximately 3% and earnings of approximately \$0.06 per diluted share for the fourth quarter ending January 31, 2004."

The Company will host a real-time webcast presentation and live conference call to discuss our third quarter operating results and expectations for the fourth quarter, today at 5:00 P.M. Eastern Standard Time. To participate in the call, dial 1-800-843-7949 five minutes before the call or access the internet at www.factory2-u.com. All shareholders and other interested parties are encouraged to participate. A replay of the call will be offered two hours after the call for 48 hours by dialing 1-800-642-1687, ID# 3719224 or on the internet through November 26, 2003. You may also obtain a transcript of the call by contacting Kehoe, White & Co., Inc. at 1-562-437-0655.

We will provide a mid-month sales update for November on November 17, 2003 at 5:00 P.M. Eastern Standard Time. Those interested can access this update message at 1-888-201-9603. This message will remain available until December 22, 2003. We will release our November sales results on December 3, 2003 after the market closes, or approximately 4:00 P.M. Eastern Standard Time.

FACTORY 2-U STORES, INC. operates 243 "Factory 2-U" off-price retail stores which sell branded casual apparel for the family, as well as selected domestics and household merchandise at prices which generally are significantly lower than the prices offered by its discount competitors. The Company operates 32 stores in Arizona, 2 stores in Arkansas, 65 stores in southern California, 63 stores in northern California, 1 store in Idaho, 8 stores in Nevada, 9 stores in New Mexico, 1 store in Oklahoma, 14 stores in Oregon, 34 stores in Texas, and 14 stores in Washington.

Except for the historical information contained herein, the matters discussed in this news release are forward-looking statements that involve risks and uncertainties, and actual results could differ materially from the Company's present expectations. Among the important factors that could cause actual results to differ materially from those indicated in the forward-looking statements are: customer demand and trends in the off-price apparel industry, the effect of economic conditions, the impact of competitive openings and pricing, supply constraints or difficulties, and other risks detailed in the Company's Securities and Exchange Commission filings.

(tables follow)

FACTORY 2-U STORES, INC. Statements of Operations (in thousands, except per share data) (Unaudited)				
	13 Weeks Ended		39 Weeks Ended	
	November 1, 2003	November 2, 2002	November 1, 2003	November 2, 2002
Net sales	\$ 121,925	\$ 134,506	\$ 349,931	\$ 379,545
Cost of sales	80,269	89,854	232,071	252,706
Gross profit	41,656	44,652	117,860	126,839
Selling and administrative expenses	45,579	49,057	133,082	144,936
Pre-opening and closing expenses	-	366	221	1,069
Operating loss	(3,923)	(4,771)	(15,443)	(19,166)
Interest expense, net	928	515	2,497	1,083
Loss before income taxes	(4,851)	(5,286)	(17,940)	(20,249)
Income tax benefit	(1,843)	(1,770)	(6,821)	(7,755)
Net loss	\$ (3,008)	\$ (3,516)	\$ (11,119)	\$ (12,494)
	=====	=====	=====	=====
Basic	\$ (0.17)	\$ (0.27)	\$ (0.71)	\$ (0.97)
Diluted	\$ (0.17)	\$ (0.27)	\$ (0.71)	\$ (0.97)
		Weighted average common shares outstanding:		
Basic	17,237	12,970	15,688	12,943
Diluted	17,237	12,970	15,688	12,943

FACTORY 2-U STORES, INC. BALANCE SHEETS (in thousands) (Unaudited)			
	November 1, 2003	November 2, 2002	February 1, 2003
	=====	=====	=====
ASSETS			
Current assets:			
Cash and cash equivalents	\$ 5,731	\$ 5,922	\$ 3,465
Merchandise inventory	85,207	83,461	32,171
Accounts receivable, net	481	2,613	884
Income taxes receivable	-	7,820	8,200
Prepaid expenses	6,622	6,109	5,436
Deferred income taxes	9,753	3,553	9,732
Total current assets	107,794	109,478	59,888
equipment, net	22,691	34,856	28,602
Deferred income taxes	17,656	7,182	10,750
Other assets	781	985	963
Goodwill	26,301	26,301	26,301
Total assets	\$ 175,223	\$ 178,802	\$ 126,504
	=====	=====	=====
LIABILITIES AND STOCKHOLDERS' EQUITY			
Current liabilities:			
Current portion of	\$ 3,035	\$ 2,000	\$ 3,000
Junior secured term loans	7,500	-	-
Accounts payable	54,180	42,047	27,961
Taxes payable	4,859	3,234	5,840
liabilities	23,117	Accrued expenses and other	27,831
		26,322	
Total current liabilities	92,691	73,603	64,632
Revolving credit facility	17,751	30,046	6,300
Long-term debts	7,280	9,181	6,445
Accrued restructuring charges	4,749	3,578	1,747
Deferred rent	2,974	3,291	3,061
Total liabilities	125,445	119,699	82,185
Stockholders' equity	49,778	59,103	44,319
	=====	=====	=====
stockholders' equity	\$ 175,223	\$ 178,802	\$ 126,504
	=====	=====	=====

ACCESSION NUMBER: 0000813775-03-000042

LANGUAGE: ENGLISH

LOAD-DATE: February 10, 2007

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FACTORY 2 U STORES INC

FORM TYPE: 8-K

DOCUMENT DATE: November 12, 2003

FILING DATE: November 13, 2003

***** COMPANY INFORMATION *****

ADDRESS: SAN DIEGO, California, 92123-1866

CIK: 0000813775

TICKER: FTUSQ

EXCHANGE: Pink Sheets

SIC CODES:

5651 - Family clothing stores

INDUSTRY TYPE: Retail (Apparel)

SECTOR ID: Services

***** FILING DATA *****

REPORT PERIOD: November 12, 2003

SEC FILE NUMBER: 001-10089

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***** TEXT *****

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report(Date of earliest event reported): November 12, 2003

FACTORY 2-U STORES, INC.(Exact name of registrant as specified in its charter)

DELAWARE(State or other jurisdiction of incorporation)

1-10089

51-0299573

(Commission File Number)

(IRS Employer Identification No.)

4000 RUFFIN ROAD, SAN DIEGO, CALIFORNIA 92123(Address of principal executive offices)

Registrant's telephone number, including area code: (858) 627-1800

NA(Former name or former address, if changed since last report)

The information in this Current Report on Form 8-K, including the exhibit, is furnished pursuant to Item 12 and shall not be deemed "filed" for the purposes of Section 18 of the Securities and Exchange Act of 1934, as amended, or otherwise subject to the liabilities under that Section. In addition, the information in this Current Report on Form 8-K, including the exhibits, shall not be deemed to be incorporated by reference into the filings of Factory 2-U Stores, Inc. under the Securities Act of 1933, as amended.

	Exhibit No.	Item 7. Exhibits Description
99.1	Press release of Factory 2-U Stores, Inc., dated November 12, 2003.	

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Item 12. Results of Operations and Financial Condition

On November 12, 2003, we announced the operating results for the 13 and 39 weeks ended November 1, 2003. In addition, we held a web-cast presentation and liveconference call discussing the operating results of our third quarter. The fulltext of our press release dated November 12, 2003 is attached as exhibit thereto. A replay of the conference call is available for 48 hours by telephone or on the Internet for two weeks from November 12, 2003. A transcript of the conference call is available by contacting Kehoe, White & Co., Inc. at 1-562-437-0655.

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SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

FACTORY 2-U STORES, INC. (Registrant)

By: [s] Douglas C. Felderman

November 13, 2003

Douglas C. Felderman
Executive Vice President and
Chief Financial Officer
Date

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EXHIBIT INDEX

	Exhibit No.	Description
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99.1		Press release of Factory 2-U Stores, Inc., dated November 12, 2003.

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LOAD-DATE: February 10, 2007

CERTIFICATE OF SERVICE

I, Denise Seastone Kraft, hereby certify that on April 2, 2008, a copy of the **Declaration of Stuart M. Brown in Further Support of Motion to Dismiss of Defendants GMAC Commercial Finance LLC, Sterling Factors Corporation and Wells Fargo Century, Inc.** was electronically filed with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to counsel of record and the document is available for viewing and downloading from CM/ECF.

/s/ Denise Seastone Kraft
Denise Seastone Kraft (No. 2778)